

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA)	
)	
v.)	Cr. No. 05-858 (WHW)
)	
GHENET MARU MESFUN)	
and)	
JOSEPH Y. MESFUN)	

PROPOSED
ORDER
FOR COMPETENCY EXAMINATION AND REPORT

On January 18, 2011, the Court held a status conference in this matter. The Court, having received and reviewed the Criminal Responsibility Evaluation report dated October 13, 2010 (signed by Dr. William Ryan and Dr. Elissa R. Miller, psychologists employed by the Federal Bureau of Prisons) and having heard from the parties during the aforementioned hearing (at which defendant Ghenet Maru Mesfun was present), finds that there is still reasonable cause to believe that defendant Ghenet Maru Mesfun is presently suffering from a mental disease or defect rendering her mentally incompetent to the extent that she is unable to understand the nature and consequences of the proceedings against her or to assist properly in her defense.

Accordingly, it is hereby ORDERED that defendant Ghenet Maru Mesfun remain in the custody of the Attorney General (preferably at MCC New York or at a suitable facility in the New York City metropolitan area) for purposes of undergoing a psychological or psychiatric examination, pursuant to 18 U.S.C. § 4241(b), to determine whether defendant Ghenet Maru Mesfun is currently competent to stand trial or enter a plea in this case. The psychological or

Case 2:05-cr-00858-WHW Document 117 Filed 01/20/11 Page 2 of 4 PageID: 576

psychiatric examination should be completed within thirty (30) days from the date defendant Ghenet Maru Mesfun arrives at the facility where the examination is to take place.

It is further ORDERED that upon completion of said examination, the examiner will prepare and provide the Court, with a copy to counsel for defendant Ghenet Maru Mesfun and the attorney for the Government, the written report as described in 18 U.S.C. § 4247(b) and (c).

Specifically, the report should include:

- (1) Defendant Ghenet Maru Mesfun's history and present symptoms;
- (2) A description of the psychiatric, psychological and/or medical tests that were employed and their results;
- (3) The examiner's findings;
- (4) The examiner's opinions as to diagnosis, prognosis, and;
- (5) The examiner's opinion as to whether defendant Ghenet Maru Mesfun is currently competent to stand trial of the charged offenses or to enter a plea (this opinion should include an explanation of the degree to which (if at all) defendant Ghenet Maru Mesfun's current regimen of medications has restored her to competency; if possible, this opinion should also address the degree to which defendant Ghenet Maru Mesfun would be a danger to herself or others if released from custody).

It is further ORDERED that defendant Ghenet Maru Mesfun's counsel and the government's attorney may provide to the examiner any and all medical reports concerning the condition of defendant Ghenet Maru Mesfun and documentary information concerning the offense charged.

It is further ORDERED that the time necessary to complete the procedures pursuant to 18 U.S.C. §§ 4241 and be excluded in computing the time within which trial must commence,

Case 2:05-cr-00858-WHW Document 117 Filed 01/20/11 Page 3 of 4 PageID: 577

pursuant to 18 U.S.C. §§ 3161(h)(1)(A), 3161(h)(1)(F), 3161(h)(1)(H), 3161(h)(4),
3161(h)(7)(A), and 3161(h)(7)(B)(ii).

In support of its finding pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by completion of procedures pursuant to 18 U.S.C. §§ 4241 outweigh the ~~best~~ ^{to} interests of the public and the defendant ~~in~~ a speedy trial, because proper resolution of defendant Ghenet Maru Mesfun's mental competency issues is necessary to the fair and orderly administration of the trial, and because the interests of fairness and judicial economy dictate that the two co-defendants be tried together due to the common questions of law and fact inherent in the charges against them.

SO ORDERED this 21 day of January, 2011


Hon. William H. Walls
UNITED STATES DISTRICT JUDGE

Case 2:05-cr-00858-WHW Document 117 Filed 01/20/11 Page 4 of 4 PageID: 578

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA)
v.) Cr. No. 05-858 (WHW)
GHENET MARU MESFUN)
and)
JOSEPH Y. MESFUN)

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2011, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Stephen Turano, Esq., counsel for Ghenet Maru Mesfun, and Thomas Ashley, Esq., counsel for Joseph Y. Mesfun.

Respectfully submitted,

/s/ Ryan R. McKinstry
Ryan R. McKinstry
Trial Attorney
Reg. No. 08628 (UT)
U.S. Department of Justice
Civil Rights Division, Criminal Section
950 Pennsylvania Ave., NW, PHB-5534
Washington, D.C. 20530
(202) 514-5997
(202) 514-8336 fax
ryan.mckinstry@usdoj.gov